ACT No. XXI OF 1883[1]

OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

[*18th December, 1883.*]

An Act to amend the law relating to the Emigration of Natives of India.

[As modified up to the 5th March, 1896.]

WHEREAS it is expedient to amend the law relating to the emigration of Natives of India; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Indian Emigration Act, 1883.

(*2*) It extends to the whole of British India.

Exemption of Government vessels.

2. Nothing in this Act or in any rule made under this Act shall apply to any vessel belonging to, or in the service of, Her Majesty or of the Government of India.

Commencement.

3. Except as to the power to make rules, this Act shall come into force on such day[2] as the Governor General in Council, by notification in the Gazette of India, appoints.

4. On

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[1] This Act has been declared in force in the Santál Parganas by the Santál Parganas Settlement Regulation, 1872 (III of 1872), s. 3 and Schedule, as amended by the Santál Parganas Laws Regulation, 1886 (III of 1886), section 6 [Bengal Code, Ed. 1889, Vol. I, p. 606].

For the Statement of Objects and Reasons with which the Bill, which eventually became Act XXI of 1883, was published, *see* the Gazette of India, 1881, Part V, p. 1082. For the debates in Council, *see* ibid, 1883, Supplement, p. 2332.

[2] The 1st April, 1886—*see* Gazette of India, 1886, Part I, p. 258.

Repeal of enactments.

4. On and from the day on which this Act comes into force, the Indian Emigration Act, 1871, and Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act, 1871,*) shall be repealed. VII of 1871.

Saving for proceedings under repealed enactments.

5. All notifications issued, contracts entered into, rules and appointments made, and licenses granted under any enactment hereby repealed, and in force on the day on which this Act comes into force, shall (so far as they are consistent with this Act) be deemed to have been respectively issued, entered into, made and granted under this Act.

Definitions.

6. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "emigrate" and "emigration" denote the departure by sea out of British India of a Native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements:

Provided that a domestic servant when accompanying his employer shall not be deemed to emigrate within the meaning of the above definition:

(*2*) "emigrant" means any Native of India who emigrates, or has emigrated, within the meaning of the above definition, or who has been registered under this Act[1] as an emigrant, and includes any dependent of an emigrant:

(*3*) "dependent" means any of the following persons accompanying any emigrant, namely:—

(*a*) any woman who has not entered into an agreement to emigrate under this Act;

(*b*) any child in whose name and on whose behalf any such agreement has not been entered into; and

(*c*) any aged or incapacitated relative or friend:

(*4*) "Magistrate"

[1] *See* Chap. VI, *infra*, p. 18.

(*4*) "Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Magistrate under this Act:

(*5*) "Registering Officer" means any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Registering Officer under this Act:

(*6*) "recruiter" includes a head recruiter or other person who collects or receives emigrants recruited by other persons:

(*7*) "vessel" includes anything made for the conveyance by water of human beings or property:

(*8*) "emigrant-vessel" means a vessel the master of which is licensed under this Act to carry emigrants therein: and

(*9*) "master" means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

Ports from which emigration is lawful.

7. (*1*) Emigration shall not be lawful except from the ports of Calcutta, Madras and Bombay, and from such other ports as the Governor General in Council, from time to time, by notification in the Gazette of India, declares to be ports from which emigration is lawful.

(*2*) The Governor General in Council may at any time, by a like notification, revoke any notification issued under this section.

(*3*) The

(Chapter II.—Ports from which, and Countries to which, Emigration is lawful.—Sections 8-9.)

(*3*) The Local Government may, from time to time, by notification in the official Gazette, fix for the purposes of this Act the limits of any port from which emigration is lawful.

Countries to which emigration is lawful.

8. (*1*) Emigration shall not be lawful except to the countries specified in the first schedule hereto annexed, and to such other countries as the Governor General in Council, from time to time, by notification in the Gazette of India, declares to be countries to which emigration is lawful.

(*2*) Every notification under this section must contain a declaration that the Governor General in Council has been duly certified that the Government of the country to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of emigrants to that country during their residence therein.

Power for Governor General in Council to prohibit emigration to any country.

9. (*1*) Whenever the Governor General in Council has reason to believe that any of the grounds, hereinafter mentioned, for prohibiting emigration to any country to which emigration is lawful, exists, he may, by notification in the Gazette of India, declare that emigration to that country shall cease to be lawful from a day specified in the notification[1]; and from that day emigration to that country shall accordingly cease to be lawful.

(*2*) The grounds referred to in sub-section (*1*) of this section are—

(*a*) that the plague or any other epidemic disease dangerous to human life has broken out in the country;

(*b*) that

[1] Emigration to the French Colonies of Cayenne (French Guiana), Réunion, Martinique and Guadaloupe has been prohibited—*see* Notifications Nos. 114, 249E. and 196-58-19E., dated respectively 12th July, 1877, 8th November, 1882, and 1st November, 1888—Gazette of India, 1877, 1882 and 1888, Part I, pages 356, 461 and 495, respectively.

(*b*) that the mortality among emigrants in the country is excessive;

(*c*) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein;

(*d*) that the agreements made with emigrants, as such, before their departure from India are not duly enforced by the Government of the country; and

(*e*) that the Governor General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain information regarding the condition or treatment of emigrants therein, has not within a reasonable time received the information asked for.

Power for Local Government to suspend emigration pending reference to Governor General in Council.

10. (*1*) Whenever the Local Government has reason to believe that, in any country to which emigration is lawful, the plague or other epidemic disease dangerous to human life has broken out, and that emigrants, if allowed to emigrate to that country, would be exposed to serious risk of life on arrival there, it may, by notification in the official Gazette, declare that emigration to that country from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

(*2*) The Local Government shall at once report the publication of a notification under this section, with the reasons for it, to the Governor General in Council, who shall thereupon publish a notification in the Gazette of India confirming or cancelling the notification published by the Local Government.

Revocation of prohibition.

11. Whenever the Governor General in Council is satisfied that the ground on which a notification has been published by him under either of the two last

(Chapter II.—Ports from which, and Countries to which, Emigration is lawful.—Sections 12-13. Chapter III.—Emigration Agents.—Sections 14-15.)

last foregoing sections with respect to any country has ceased to exist, he may, by notification in the Gazette of India, declare that emigration to that country shall again be lawful from a day to be specified in the notification.

Power for Local Government to prohibit emigration to specified country from the whole or any specified part of its territories.

12. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, prohibit, from a day specified in the notification, all Natives of India or any specified class of Natives, from emigrating from the whole or any specified part of the territories under its administration to any specified country.

(*2*) The Local Government may, with the like sanction, in like manner, vary or cancel any notification published under this section.

Saving for acts done before publication of notification.

13. The publication of a notification under any of the four last foregoing sections shall not affect any act done, offence committed or proceedings commenced before the publication.

CHAPTER III.

EMIGRATION AGENTS.

Appointment of Emigration Agents.

14. (*1*) The Government of every country to which emigration is lawful may, from time to time, appoint a person to be Emigration Agent in any port from which emigration is lawful, and may suspend or remove any person so appointed.

(*2*) An appointment under this section shall not take effect until the Local Government, by notification in the official Gazette, has declared its approval of the appointment.

Remuneration of Agents.

15. The remuneration to be given to an Emigration Agent shall not depend on, or be regulated by, the

the number of emigrants sent by him, but shall be in the nature of a fixed salary :

Provided that the Governor General in Council may, from time to time, authorize the payment to specified Emigration Agents of special fees for occasional work.

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

Appointment of Protectors of Emigrants.

16. (*1*) The Local Government may, from time to time, appoint a proper person to be the Protector of Emigrants for any port within the territories administered by it from which emigration is lawful.

(*2*) The Governor General in Council may, from time to time, define the local area to which the authority of any Protector of Emigrants so appointed shall extend.

(*3*) Every Protector of Emigrants may be suspended or removed by the Local Government which appointed him.

(*4*) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.[1]

XLV of 1860.

General duties of Protector.

17. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

(*a*) protect and aid with his advice all emigrants;

(*b*) cause, so far as he can, all the provisions of this Act and of the rules made under this Act to be complied with;

(*c*) inspect, on arrival, all vessels bringing return-emigrants to the port for which he is Protector;

(*d*) enquire

[1] For Act XLV of 1860 *see* the revised edition, as modified up to the 1st May, 1896, published by the Legislative Department.

(Chapter IV.—Protectors of Emigrants and Medical Inspectors.—Sections 18-19. Chapter V.—Recruiters.—Section 20.)

(*d*) enquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government; and

(*e*) aid and advise the return-emigrants so far as he reasonably can.

Appointment of Medical Inspector.

18. (*1*) The Local Government may, from time to time, appoint a Medical Inspector of Emigrants at each port from which emigration is lawful, and may suspend or remove him.

(*2*) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code[1]. XLV of 1860.

Protector and Medical Inspector to have facilities for inspection.

19. Every Emigration Agent, and all persons in charge of, or employed in, any depôt established under this Act[2], or in charge of, or employed in, any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for making such inspections, examinations and surveys as are required by this Act or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require.

CHAPTER V.

RECRUITERS.

Protector of Emigrants to license recruiters.

20. (*1*) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to

[1] For Act XLV of 1860 *see* the revised edition, as modified up to the 1st May, 1896, published by the Legislative Department.

[2] *See* Chap. VII, *infra*, p. 22.

to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the local area to which the authority of the Protector extends.

(*2*) A person shall not, unless he holds a license granted under this chapter,—

(*a*) enter into, or attempt to enter into, any agreement with any person purporting to bind him to emigrate, or

(*b*) in consideration of any hire or reward, induce, or attempt to induce, any person to leave any place for the purpose of emigrating, or

(*c*) act or be employed in any other respect as a recruiter of emigrants.

(*3*) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

Form of license.

21. Every license granted under this chapter shall specify the particular country for which, and the local area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule hereto annexed.

Duration of license.

22. (*1*) A license granted under this Chapter shall not be in force for a longer period than one year from the day on which it comes into force.

(*2*) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this Chapter before the expiration of the period for which it is in force.

Counter-signature of license.

23. (*1*) A recruiter shall not, in any place beyond the limits of a port from which emigration is lawful, enter, or attempt to enter, into any agreement with any person purporting to bind him to emigrate, or induce or assist, or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act or be employed in any other respect as a recruiter

recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(*2*) If a District Magistrate has satisfied himself, after such enquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, he may refuse to countersign a recruiter's license.

(*3*) If a District Magistrate has satisfied himself, after such enquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the depôt at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(*4*) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

Power for Magistrate to cancel countersignature in certain cases.

24. If any Magistrate, having countersigned a recruiter's license, afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided for intending emigrants or emigrants collected by him has become unsuitable or has ceased to be available, he may require the licensee to produce his license, and may cancel the countersignature on it, or may impound the license and send it for cancellation to the Protector of Emigrants who granted it.

Notice to Protector of Emigrants of countersignature, refusal to countersign or cancellation of countersignature.

25. When a Magistrate countersigns, or refuses to countersign, a recruiter's license, or cancels the countersignature on it, he shall at once report the countersignature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

Recruiter to be supplied

26. (*1*) The Emigration Agent on whose application

tion any recruiter is licensed shall supply the recruiter with a written or printed statement, signed by the Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorised to offer on behalf of the Agent to intending emigrants. with statement of terms of agreement he is authorised to offer.

(*2*) The statement shall be both in English and in the Vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(*3*) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

27. (*1*) Every recruiter shall provide sufficient and proper accommodation in a suitable place for such intending emigrants or emigrants as may be collected by him pending their registration or removal to the port of embarkation. Accommodation to be provided by recruiters.

(*2*) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(*3*) Every District Magistrate, and any subordinate Magistrate or officer of Police authorised in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided under this section, the same powers as are by this Act[1] conferred on a Protector of Emigrants in respect of depôts at the port of embarkation.

(*4*) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of Police authorised as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER

[1] *See* Chap. VII, *infra*, p. 22.

(*Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.—Sections 28-31.*)

CHAPTER VI.

REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE.

Power for Local Government to appoint Registering Officers.

28. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform in a specified local area, but subject to the control of the District Magistrate or such other officer as the Local Government appoints, by name or by virtue of his office, in this behalf, the functions of a Registering Officer under this Act.

Execution of agreements.

29. Every agreement to emigrate entered into by any person must,—

(*a*) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector ;

(*b*) if executed elsewhere, be executed in the presence of a Registering Officer.

Appearance of intending emigrants before Registering Officer.

30. Every recruiter who desires to engage any person to emigrate shall appear before a Registering Officer or the Protector of Emigrants (as the case may be) with that person, and with any persons intending to accompany that person as his dependents.

Examination and registration of emigrant.

31. (*1*) The Registering Officer or Protector shall thereupon examine the person, apart from the recruiter, with reference to his intended agreement ; and, if it appears that he is competent and willing to enter into the agreement and understands its nature, that he has not been induced to enter into it by any coercion, undue influence, fraud, misrepresentation or mistake, [and][1] that its terms are in conformity with law, and are such as, according to the statement furnished to the recruiter under section 26, he was authorised to offer, shall, subject to the provisions of section

33,

[1] Inserted by Act XVIII of 1890, s. 1.

33, register in a book to be kept for the purpose, in such form as the Governor General in Council, from time to time, by rules made under this Act, prescribes, the name, sex, name of the father, caste, occupation and age of the intending emigrant, and the name of the village or place of which he is a resident, and such other particulars (if any) concerning him and his dependents (if any) as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Power to refuse registration case of married women

32. (*1*) Notwithstanding anything contained in the last foregoing section, the Registering Officer or Protector may refuse to register any married woman under that section if he finds that her husband does not consent to her emigrating.

(*2*) The Registering Officer or Protector may also, in the case of any woman whom he believes to be married, refuse to decide whether he will register her until after the expiration of such time, not exceeding ten days, as he thinks fit.

Examination of dependent

33. (*1*) When any person appears before a Registering Officer or Protector under section 30 as a dependent of an intending emigrant, the Registering Officer or Protector shall, if the person is able to give intelligent answers to questions, examine him, apart from the recruiter, as to his dependence on the intending emigrant whom he is about to accompany, and as to his willingness to emigrate.

(*2*) Where the Registering Officer or Protector sees reason to doubt the existence of the dependence or willingness, he may, if he thinks fit, refuse to register the intending emigrant, unless the name of the dependent is omitted from the register.

Record of reasons for refusal to register.

34. Whenever the Registering Officer or Protector refuses to register any intending emigrant, he shall record his reasons for the refusal.

35. (*1*) When

(*Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.—Sections 35-36.*)

Execution and attestation of agreement.

35. (*1*) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, the Registering Officer or Protector shall cause an agreement to be prepared in duplicate,[1] and shall call on the recruiter and the intending emigrant to execute the agreement in duplicate [1] in his presence, and, if they execute it, shall attest the execution with his signature.

(*2*) An agreement to emigrate shall not be of any effect until the particulars concerning the intending emigrant and his dependents (if any) have been registered, and the agreement has been executed and attested under this Act.

(*3*) When the particulars concerning any intending emigrant and his dependents (if any) have been registered and an agreement has been executed and attested under this Act, the intending emigrant shall be deemed to be registered under this Act as an emigrant.

[(*4*)[2] Any number of intending emigrants appearing with the same recruiter before the Registering Officer or Protector at the same time, and desiring to emigrate on the same terms to the same country, may, with the permission of the Registering Officer or Protector (as the case may be), execute one instrument of agreement under this section, instead of each of such intending emigrants executing a separate instrument.]

Contents of agreement.

36. Every agreement to emigrate shall contain a copy of the particulars registered concerning the intending emigrant and his dependents (if any) under section 31, and on the reverse such particulars concerning the nature, duration and term of service and the

[1] The words "in duplicate" were substituted for the words "in triplicate" by Act XVIII of 1890, s. 2 (*1*).

[2] Added by Act XVIII of 1890, s. 2 (*2*).

the remuneration of the emigrant, and such other matters (if any) as the Governor General in Council from time to time, by rules made under this Act, prescribes.

Record of registrations and agreements.

[37.[1] When the agreement has been executed and attested—

(*a*) one of the copies thereof shall be delivered to the emigrant, and the other shall be retained by the Protector or sent by the Registering Officer to him, and

(*b*) a certified copy of the particulars registered under section 31 concerning the emigrant or emigrants by whom the agreement was executed, and concerning his or their dependents (if any), shall be delivered to the recruiter for transmission to the Emigration Agent.]

Fee for preparation of agreement.

38. For the preparation of every agreement under this Chapter the recruiter or Emigration Agent shall pay such fee as the Governor General in Council, from time to time, by notification in the Gazette of India, prescribes :[2]

Provided that the Governor General in Council may at any time, by like notification, declare that the fee payable under this section shall be consolidated, either generally or in any specified local area, with the fee payable under section 73.

Power to make agreement if over 16.

39. Notwithstanding anything to the contrary in the Indian Contract Act, 1872[3], it shall be lawful for any person of the age of sixteen years or upwards to enter in manner in this Act provided into an agreement

X of 1872.

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[1] Substituted by Act XVIII of 1890, s. 3.

[2] *See* Notifications No. 121-E., dated the 1st April, 1886—Gazette of India, 1886, Part I, p. 277 ; and No. 7-E., dated 29th March, 1888—Gazette of India, 1888, Part I, p. 147.

[3] For Act IX of 1872 *see* the revised edition, as modified up to the 1st May, 1896, published by the Legislative Department.

(*Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.—Section 40. Chapter VII.—Emigration Depôts.—Sections 41-42.*)

agreement to emigrate to any place to which emigration is lawful.

Power to make agreement on behalf of child or ward.

40. Any person entering into an agreement to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided binding the child to emigrate with him.

CHAPTER VII.

EMIGRATION DEPÔTS.

Depôts to be established at ports of embarkation.

41. Every Emigration Agent shall establish at the port for which he is appointed a suitable depôt for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depôt.

Licensing of depôts.

42. (*1*) A depôt established under the last foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

(*2*) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(*3*) The Protector of Emigrants may at any time cancel a license under this section—

(*a*) if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or

(*b*)

(Chapter VII.—Emigration Depôts.—Sections 43-45. Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival.—Section 46.)

(*b*) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

Inspection by Protector and Medical Inspector.

43. The Protector of Emigrants and the Medical Inspector shall, from time to time, and at least once in every week during which any emigrants may be kept in any depôt at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depôt and examine the state of the depôt and the manner in which the emigrants therein are lodged, fed, clothed and otherwise provided for and attended to.

Report by Medical Inspector.

44. The Medical Inspector shall report to the Protector of Emigrants any circumstance that may come to his knowledge showing that any depôt is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

Treatment of emigrant suffering from disease.

45. (*1*) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depôt.

(*2*) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

CHAPTER VIII.

Conveyance of Emigrants to Depôts and Procedure on Arrival.

Emigrant not to be removed

46. A recruiter shall not remove or attempt to remove

before registration.

remove any intending emigrant to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depôt, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

Conveyance of emigrant to depôt.

47. (*1*) Every emigrant must, after he has been registered under this Act, be conveyed with all convenient despatch, by or under the orders of the recruiter or Emigration Agent, to the depôt established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

(*2*) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(*3*) The Magistrate shall give to the person so appointed a certificate signed by him stating that he has been appointed for the journey to the depôt.

(*4*) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

Report of arrival at depôt.

48. The arrival at a depôt of each emigrant must immediately be reported by the person in charge of the depôt to the Emigration Agent, and by the Agent to the Protector of Emigrants.

Examination by Medical Inspector.

49. (*1*) The copy of the particulars registered under section 31[1] received by the recruiter from the Registering Officer or Protector must, as soon as conveniently may be after the arrival of the emigrant at the depôt, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

(*2*) The

[1] The words and figures "particulars registered under section 31" were substituted for the word "agreement" by Act XVIII of 1890, s. 4.

(*2*) The Medical Inspector shall examine each emigrant entered in the said copy[1] to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(*3*) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

Power for Protector to order payment of expenses of return of emigrant in certain cases.

50. (*1*) In any of the following cases, namely:—

(*a*) if the Medical Inspector of Emigrants finds that an emigrant is, or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(*b*) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

(*c*) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and, when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(*2*) Any emigrant who has been registered at any place

[1] The words "said copy" were substituted for the word "agreement" by Act XVIII of 1890, s. 4.

place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed and attended to at the depôt at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

Payment of expenses of dependents and relatives.

51. (*1*) When any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation, any emigrant who has been registered as his dependent,

or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, shall be entitled—

(*a*) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and

(*b*) if the emigrant is unable to travel, to be lodged, fed and clothed in the depôt at the expense of the Emigration Agent until the emigrant is able to travel.

(*2*) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

Compensation to emigrant for ill-treatment on journey.

52. If it appears that during the journey to the depôt any emigrant has suffered any ill-treatment, or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section 47 have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—

(*a*) to the emigrant a reasonable sum by way of compensation, and,

(*b*) if

(*b*) if any expenses have been incurred by or under the orders of the Protector on behalf of the emigrant by reason of the neglect to comply with the provisions of section 47, to the Protector the expenses so incurred.

Power for Protector to pay and recover expenses incurred on behalf of emigrant.

53. (*1*) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant.

(*2*) Every sum paid by the Protector to an emigrant under sub-section (*1*), and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(*3*) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

Master of emigrant-vessel to be licensed.

54. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government.

Application for license.

55. (*1*) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the Protector

Protector of Emigrants to the Local Government for the license.

(*2*) The application must state the number of emigrants which, according to the rules as to space contained in this Chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Survey and licensing of vessel.

56. (*1*) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness, and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel and furniture requisite for her intended voyage:

[[1] Provided that, if the vessel is a steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government or under the Indian Steam-ships Act, 1884 [2], and in force and applicable to her intended voyage, the survey under this sub-section with a view to ascertain her seaworthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage or has otherwise become inefficient.] VII of 188[illegible]

(*2*) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein specifying the number of emigrants which may be received on board.

57. (*1*) A

[1] Added by Act XVIII of 1890, s. 5.

[2] For Act VII of 1884 *see* the revised edition, as modified up to the 1st July, 1896, published by the Legislative Department.

Accommodation required on board emigrant-vessel.

57. (*1*) A license shall not be granted under the last foregoing section unless—

(*a*) there is provided for the emigrants, either between decks or, subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;

(*b*) a separate place is fitted up for a hospital; and

(*c*) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

(*2*) The cabins on the upper deck provided under clause (*a*) of this section must be firmly secured and entirely covered in.

Rules as to space on board emigrant-vessel.

58. Every emigrant-vessel must contain within the space referred to in clause (*a*) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant:

Provided that two emigrants under the age of ten years shall for the purposes of this section count as one only.

Provisions, clothing, fuel and water.

59. There must be on board every emigrant-vessel, at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel and water for the emigrants (over and above the supply for the master, officers and crew, and of the cabin and other passengers, if any), in such quantity and of such description and quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Surgeons, attendants, medicines and stores.

60. Every emigrant-vessel must, at the time of departure of the vessel from the port at which the emigrants

emigrants embark, have on board, and must carry with her, a properly qualified surgeon, and also such compounders, interpreters and attendants subordinate to the surgeon, and such medicines and other stores, in such quantity and of such quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Duty of Protector and Medical Inspector with respect to enforcement of foregoing sections.

61. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.

Bond to be executed by master of emigrant-vessel.

62. (*1*) Every master licensed under this Act shall, on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector, in duplicate, a bond, in such form as the Local Government, from time to time, prescribes, binding himself and the owner of the vessel in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner, respectively.

(*2*) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

Time of embarkation after arrival.

63. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the depôt.

64. (*1*) An

Time at which emigrant-vessels may leave India.

64. (*1*) An emigrant-vessel shall not sail from any port in British India—

(*a*) to any country west of the Cape of Good Hope, except at such seasons as the Governor General in Council, from time to time, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country;

(*b*) to any country during any season which the Governor General in Council, from time to time, by notification in the Gazette of India, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

Procedure if emigrant refuses to embark.

65. If any emigrant without sufficient cause refuses or neglects to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark; but nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

List of, and passes for, emigrants.

66. (*1*) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages and occupations of the emigrants, and the names of their respective fathers.

(*2*) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(*3*) Every emigrant shall on embarkation deliver the pass to the master.

(*4*) The

(*4*) The master shall compare the emigrants who embark and the passes delivered by them with the list supplied by the Emigration Agent; and, if the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(*5*) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master or is not mentioned in the list.

Disposal of the two copies of list to be given by master to Protector.

67. (*1*) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(*2*) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

Disposal of the two copies of list o be given by master to Emigration Agent.

68. (*1*) The master shall give to the Emigration Agent the two remaining copies of the list.

(*2*) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(*3*) The master shall, on the arrival of the vessel at the country to which the emigrants have agreed to emigrate, and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

Examination of emigrants by Medical Inspector.

69. (*1*) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that

that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(*2*) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(*3*) The provisions of sections 50, 51 and 53 shall apply to emigrants who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

70. [*Emigration Agent to deliver agreements to emigrate to master.*]—*Repealed by Act XVIII of 1890, section 6.*

Certificates from Protector of Emigrants and Emigration Agent.

71. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that port in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being and protection of emigrants which are contained in this Act or in the rules made under this Act have, in the case of that vessel, been complied with.

Copies of Act and rules to be kept on board.

72. The master of every emigrant-vessel shall keep on board the vessel during the whole voyage two copies of this Act, and of all rules made under this Act, and two copies of a translation of this Act, and

of

of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

Fee for each embarked emigrant.

73. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor General in Council, from time to time, by notification in the Gazette of India, prescribes :[1]

Provided as follows :—

(*a*) the fee payable under this section shall not be more than is, in the opinion of the Governor General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor General in Council thinks necessary to provide for the control of emigration ;

(*b*) if it appears to the Governor General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

Duty of master to see to observance of Act and rules on board his vessel.

74. It shall be the duty of every master licensed under this Act to see that all the provisions of this Act and the rules made under this Act are observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

Return of pass to emigrant.

75. The master shall return his pass to each emigrant

[1] *See* foot-note to s. 38, *supra*, p. 21.

grant before he disembarks in the country to which he has agreed to emigrate.

Special Provisions as to Vessels sailing from Calcutta.

Emigrant-vessel sailing from Calcutta to depart within twenty-four hours of embarkation.

76. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

Emigrant-vessel sailing from Calcutta to be towed to sea.

77. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

Power of surgeon of emigrant-vessel leaving Calcutta to require sick emigrants to be sent to hospital.

78. (*1*) When an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever or small-pox appears on board, the master shall, if so required by the surgeon in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents, and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of any such emigrant and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

(*2*) The provisions of sections 50, 51 and 53 shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

Power of surgeon of emigrant-vessel leaving Calcutta to require all

79. (*1*) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require

emigrants to be landed when cholera appears.

require the master to land all the emigrants on board the vessel at Diamond Harbour.

(*2*) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

CHAPTER XI.

RULES.

Power for Governor General in Council to make rules.

80. (*1*) The Governor General in Council may, from time to time, make rules[1] consistent with this Act—

(*a*) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of Police to be authorized to visit and inspect those places;

(*b*) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act;

(*c*) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein, and the language or languages in which agreements must be expressed;

(*d*) to prescribe the conditions on which licenses for the establishment of depôts under this Act may be given, to provide for the supervision

[1] For rules issued under this section, *see* Notification No. 94E., dated the 18th March, 1886, Gazette of India, 1886, Part I, p. 161. These rules have been amended and added to from time to time, but the amendments and additions are too numerous to be given here.

vision and regulation of depôts, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there ;

(*e*) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act ;

(*f*) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state ;

(*g*) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangements to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel ;

(*h*) to prescribe the description, quantity and quality of provisions, fuel and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage ;

(*i*) to fix the number of the compounders, interpreters and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel ;

(*j*) to prescribe the nature, quantity and quality of medicines and other stores to be carried on board emigrant-vessels ;

(*k*) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets

and

and other appliances to be used in case of shipwreck or fire;

(*l*) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful;

(*m*) to provide for the disposal of emigrants who may be landed under section 79;

(*n*) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage;

(*o*) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care;

(*p*) to define and regulate the powers and duties of the several officers appointed by the Government under this Act; and

(*q*) generally to provide for the security, well-being and protection of emigrants:

Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (*g*) of this section, permit an emigrant-vessel to sail, though it does not carry the proportion of women required to be carried in ordinary cases.

(2) The power to make rules conferred by this section may be exercised at any time after the passing of this Act, but any rule made under this section shall not take effect until the Act comes into force.

Publication of drafts and rules.

81. (1) The Governor General in Council shall, before making rules under the last foregoing section, publish

publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

(*2*) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(*3*) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*4*) Every rule made under the last foregoing section shall be published in the Gazette of India, and the publication in the Gazette of India of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

CHAPTER XII.

OFFENCES.

Unlawful recruiting.

82. (*1*) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

(*a*) makes, or attempts to make, any agreement with any Native of India, purporting to bind him to emigrate, or

(*b*) in consideration of any hire or reward, induces, or attempts to induce, any Native of India to leave any place for the purpose of emigrating, or otherwise acts or is employed as a recruiter of emigrants, or

(*c*) in consideration of any hire or reward, receives into or detains in any place, or, being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or

after

after his registration as an emigrant and before his departure for the depôt at the port of embarkation,

shall be punished with fine which may extend to five hundred rupees.

(*2*) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any Police-officer may arrest him without warrant.

Recruiters removing unregistered emigrants to depôt.

83. Whoever, being a recruiter licensed under this Act,—

(*a*) removes, or attempts to remove, any intending emigrant to a depôt before he has been registered under this Act as an emigrant, or induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned before he has been so registered, or aids, or attempts to aid, him in leaving any such local limits or going to any depôt before he has been so registered, or

(*b*) fails to give a true copy of the statement with which he is provided under section 26 to any person whom he invites to emigrate, or

(*c*) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depôt,

shall be punished with fine which may extend to five hundred rupees.

Fraudulently inducing Native to emigrate.

84. (*1*) Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any Native of India to emigrate, or to enter into any agreement to emigrate, or to leave any

place

place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

False representation of Government authority.

85. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure emigrants, or falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Receiving emigrants on board vessel in contravention of Act.

86. If any master of a vessel—

(*a*) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act or the rules made under this Act, so far as they are binding on him, or,

(*b*) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or

(*c*) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both; and the vessel, her tackle, apparel and furniture, may be declared by the Court before which the master is tried to be forfeited to Her Majesty.

Fraudulent acts on part of master.

87. If any master licensed under this Act fraudulently does, or suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, he shall be punished with fine which may extend to five thousand rupees,

and

and he may also be sued on any bond which he may have executed under section 62.

Clearance without compliance with Act.

88. If any master of an emigrant-vessel clears, or attempts to clear, his vessel outwards when any of the provisions of section 57, 59 or 60 have not been complied with in respect of his vessel, he shall be punished with fine which may extend to four thousand rupees.

Failure of master to comply with provisions as to lists and passes.

89. If any master receives on board his vessel any emigrants and fails to comply with the requirements of sections 66, 67 and 68 in respect of those emigrants, he shall be punished with fine which may extend to two hundred rupees for each emigrant so received on board.

Master taking on board, after clearance, emigrants not entered in list.

90. If any master, having cleared his vessel, takes on board any emigrant not entered in the list mentioned in section 66 or not furnished with a pass required by that section, he shall be punished with fine which may extend to two hundred rupees for each emigrant so taken.

Master landing emigrant at other than specified country.

91. If any master lands any emigrant in any country other than the country for which he has been shipped by the Emigration Agent, he shall be punished for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section 78 or 79.

Failure to comply with provisions as to leaving Calcutta.

92. If any master of a sailing-vessel leaving the port of Calcutta with emigrants on board—

(*a*) does not leave Garden Reach with his vessel within the time prescribed in section 76, or

(*b*) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section 77,

he shall be punished with fine which may extend to one thousand rupees.

93. (*1*) If

Emigrant deserting or refusing to proceed to depôt.

93. (*1*) If any emigrant deserts before arrival at depôt, or refuses without reasonable cause to proceed to the depôt, he shall be punished with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

(*2*) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Emigrant deserting from depôt or failing to embark.

94. (*1*) If any emigrant—

(*a*) deserts from the depôt, or

(*b*) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering and conveying him to the depôt, and maintaining him therein, or with both.

(*2*) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Causing or permitting, embarkation of emigrant in contravention of section 63.

95. If any person causes, or if any master knowingly permits, any emigrant to embark contrary to the provisions of section 63, he shall be punished with fine which may extend to two hundred rupees for each emigrant so embarked.

Institution of prosecutions.

96. (*1*) Prosecutions under sections 86 to 95 (both inclusive) shall not be instituted except as follows, namely:—

(*a*) prosecutions under sections 86 to 92, both inclusive, by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed

appointed for the purpose by the Local Government;

(*b*) prosecutions under section 93, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation;

(*c*) prosecutions under section 94, by the Emigration Agent with the sanction of the Protector;

(*d*) prosecutions under section 95, by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

Defence to charges of desertion.

97. The following shall be good defences to charges under sections 93 and 94, respectively, namely :—

(*a*) to a charge under section 93, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived or defrauded by the recruiter or any person under his control;

(*b*) to a charge under section 94, that the emigrant has suffered any ill-treatment or neglect in the depôt or on the journey thither.

Power for Customs-officers to search and detain for purposes of Act.

98. All the powers for the time being conferred by law[1] on officers of sea-customs with regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

CHAPTER XIII.

SUPPLEMENTAL.

Power for Local Government to

99. The Local Government may, from time to time, appoint any person, by name or by virtue of his

[1] *See* Chap. XVII of the Sea Customs Act, 1878 (VIII of 1878), a revised edition of which, as modified up to the 1st July, 1891, has been published by the Legislative Department.

his office, to perform within a specified local area the functions of a Magistrate under this Act.

appoint Magistrates for purposes of Act.

100. (*1*) Whenever an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

Suits against Emigration Agent for breach of duty.

(*2*) In awarding compensation under this section all sums ordered to be paid under section 50 or section 52 shall be taken into consideration.

101. (*1*) The Governor General in Council may, from time to time, by notification in the Gazette of India, determine what shall be held to be, for the purposes of this Act, the probable length of the voyages by sailing-vessels and vessels using steam-power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

Power for Governor General in Council to determine probable lengths of voyages for purposes of Act.

(*2*) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule hereto annexed, to the countries mentioned in that schedule, shall be deemed to be the lengths stated in that schedule.

102.[1] (*1*) On and from such a date as the Governor General in Council may, by notification in the Gazette of India, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements,[2] or with

Provision supplementary to section 6 (*1*) of this Act.

[1] This section was enacted in substitution for the original section 102 (as amended by Act XXI of 1884) by Act XVIII of 1890, section 7. For saving of notifications, see *ibid.*, s. 8.

[2] A Native of India departing by sea under an agreement to labour for hire in (*1*) the Protected Native States of Perak, Selangor, Sungei, Ujong and Johore, (*2*) the Protected Native States of Negri, Sembilan and Pahang, (*3*) from Negapatam to British North Borneo or Labuan and (*4*) from Negapatam to the State of Sarawak, has been declared not to emigrate within the meaning of the Act—*see* Notifications Nos. 119-2, 27E., 154-15-9-E, Nos. 1153-5—13-E. and 411—46-10-E., dated respectively 1st April, 1886, 27th September, 1889, 11th June, 1891, and 25th March, 1897—Gazette of India, 1886, 1889, 1891 and 1897, Part I, pp. 277, 526, 320 and 239, respectively.

with respect to any country [1] for labour in which Natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a Native of India who departs by sea out of British India under an agreement to labour for hire in any such State or country [2] shall not, so long as the notification continues to apply to the State or country,[2] be deemed to emigrate within the meaning of this Act.

(*2*) The Governor General in Council may, by notification in the Gazette of India, declare that from a date to be specified, a notification under sub-section (*1*) shall no longer apply to a Native State or country[2] therein mentioned.

Application of Act to emigration from British ports to French and Dutch colonies.

103. The provisions of this Act shall apply to emigration from British Indian ports—

(*a*) to the French colonies, under the terms of the Convention executed at Paris on the first day of July, 1861, and ratified at the same place on the thirtieth day of July, 1861, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French ; and

(*b*) to the Netherlands colony of Dutch Guiana under the terms of the Convention executed at the Hague on the eighth day of September, 1870, and ratified at the same place on the seventeenth day of February, 1872, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Netherlands :

—Provided that, in any case in which there is any conflict between the provisions of this Act and those contained

[1] The word "country" was substituted for the words "British Colony or possession" by the Indian Emigration Act Amendment Act, 1897 (VII of 1897).

[2] The words "State or country" were substituted for the words "State, colony or possession" by the Indian Emigration Act Amendment Act, 1897 (VII of 1897), s. 2.

contained in either of those Conventions, the latter shall prevail.

Application of Act to proceedings in British India connected with emigration from French ports in India to French colonies.

104. The provisions of this Act shall, so far as they relate to proceedings which are to be conducted in British India, apply, in the case of Natives of India who depart by sea from a French port in India under an agreement to labour for hire in a French colony, under the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French referred to in the last foregoing section, as if such Natives were emigrants within the meaning of this Act:

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in that Convention, the latter shall prevail.

Prohibition of departure by land of a Native of India under an agreement to labour for hire in some country beyond the sea.

105. (*1*) The departure by land out of British India of a Native of India under, or with a view to entering into, an agreement [1] to labour for hire in some country beyond the sea other than the Island of Ceylon or the Straits Settlements is prohibited:

Provided that nothing in this section applies to the departure by land—

(*a*) of a domestic servant when accompanying his employer;

(*b*) of a Native of India for the purpose of departing by sea from a French port in India under an agreement to labour for hire in a French colony in accordance with the Convention referred to in section 103, clause (*a*), and section 104.[2]

(*2*) Whoever induces, or attempts to induce, any Native of India to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under section 82.

106. The

[1] The words "under, or with a view to entering into, an agreement" were substituted for the words "under a contract" by Act I of 1896, s. 1.

[2] The words and figures "section 103, clause (*a*), and section 104" were substituted for the word and figures "section 102" by Act XVIII of 1890, s. 9.

(Chapter XIII.—Supplemental.—Section 106. Schedule I.—Countries to which Emigration is lawful.)

Power to declare whole or part of Act and rules inapplicable to Natives of India engaged for Her Majesty's Government to labour for hire in any country beyond the sea.

[**106.**[1] The Governor General in Council may, from time to time, by notification in the Gazette of India, declare that all or any of the provisions of this Act or the rules thereunder shall not apply, or shall apply subject to such conditions, modifications or restrictions as to the Governor General in Council may seem expedient, in the case of Natives of India departing out of British India under an agreement made with, or on behalf of, Her Majesty's Government to labour for hire in any country beyond the sea :[2]

Provided that no notification under this section shall be issued unless the Governor General in Council is first satisfied that the fair treatment of Natives of India so departing out of British India has, by rules or otherwise, duly been secured.]

SCHEDULE I.

(See section 8.)

COUNTRIES TO WHICH EMIGRATION IS LAWFUL.

I.—The British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji.

II.—The French colonies of Martinique, Guadeloupe and its dependencies, and Guiana.[3]

III.—The Netherlands colony of Dutch Guiana.

IV.—The Danish colony of St. Croix.

SCHEDULE II.

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[1] Added by Act I of 1896, s. 2.

[2] The provisions of the Act have, under this section, been declared not to apply to labourers engaged in connection with the railway from Mombassa to Victoria Nyanza—*see* Notifications Nos. 93—2-10 and 569—2-15, dated, respectively, the 17th January, and the 18th April, 1896—Gazette of India, 1896, Part I, pages 34 and 274, respectively.

[3] Emigration to these French colonies has been prohibited—*see* footnote to s. 9 on page 10, *supra*.

(Schedule II.—Form of Recruiter's License.)

SCHEDULE II.

(See section 21.)

FORM OF RECRUITER'S LICENSE.

OFFICE of the Protector of Emigrants at the Port of

A. B., described in the descriptive roll annexed, is hereby licensed under the Indian Emigration Act, 1883, to be a recruiter of emigrants for [*here state the country for which the recruiter is licensed to recruit*] in [*here specify the local area within which the recruiter is licensed to recruit.*]

This license will be in force until the of , unless previously cancelled.

(Signed) *C. D.*,
Protector of Emigrants.

Dated the day of .

Descriptive Roll.

Name.	Father's Name.	Age.		Caste.	Colour.	Height.		Distinguishing marks.	Name of village, local sub-division (tahsil, taluq, etc.) and district to which he belongs.
		Years.	Months.			Feet.	Inches.		

SCHEDULE III.

(*Schedule III.—Probable Lengths of Voyage under this Act.*)

SCHEDULE III.

(*See section 101.*)

PROBABLE LENGTHS OF VOYAGE[1] UNDER THIS ACT.

FROM CALCUTTA—	
To Mauritius . . .	From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Twenty weeks.
To Natal	Twelve weeks.
To Fiji	Eighteen weeks.
FROM MADRAS—	
To Mauritius . . .	From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Nineteen weeks.
To Natal	Ten weeks.
To Fiji	Seventeen weeks.
FROM BOMBAY—	

[1] By sailing-vessel—*see* s. 101 (*2*), *supra*.

(*Schedule III.—Probable Lengths of Voyage under this Act.*)

FROM BOMBAY—	
To Mauritius . . .	From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Nineteen weeks.
To Natal	Ten weeks.
To Fiji	Seventeen weeks.

Government of India Central Printing Office.—No. 675 L. D.—28-5-97.—6,500.—J. E. F